IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22349 of 2004

Between:

M.Sattaiah S/o.Gangaiah
R/o.Dhanura Village, Tekmal (M),
Medak Dist.

..... PETITIONER

AND

1 The Joint Collector
Sangareddy, Medak.
2 Revenue Divisional Officer
Medak Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, or order or direction more particularly in the nature of Writ of mandamus declaring the action of R2 in cancelling the authorisation in issuing proceedings vide No.J/2106/2004, dt 13-10-2004 signed on 16-11-04 and proceedings vide No.J/483/2003, dt 8-11-04 are illegal and unconstitutional and consequently set aside these two proceedings.

Counsel for the Petitioner:MR.K.S.MURTHY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

Petitioner is the dealer of a fair price shop at Dhanura village, Tekmal mandal, Medak district. He was issued a show cause notice dated 11.10.2004. As many as seven charges were framed alleging certain acts and omissions on the part of the petitioner. The petitioner submitted his explanation on 01.11.2004. The second respondent passed an order dated 13.10.2004 cancelling the authorization of the petitioner. The petitioner claims to have filed an appeal, together with an application for stay before the first respondent. The petitioner contends that even while the appeal is pending, the second respondent issued a notification dated 08.11.2004 proposing to select and appoint a dealer for the same fair price shop.

Learned counsel for the petitioner submits that there is a complete non-application of mind at various stages in this case, reflecting arbitrariness. He submits that the show cause notice dated 11.10.2004 was issued requiring the petitioner to submit his explanation within seven days, whereas the authorization was cancelled through order dated 13.10.2004, which was signed by the second respondent on 16.11.2004. He further contends that issuance of a notification on 08.11.2004 inviting applications, would demonstrate the arbitrariness in the matter.

Having regard to the various dates referred to above, this Court, in fact, directed the second respondent to appear and explain the facts. He filed two affidavits. He stated that the date on the order of cancellation viz. 13.10.2004 is wrong and it should have been 13.11.2004. He also stated that the notification in respect of the shop in question was issued on 08.11.2004 inadvertently and by mistake.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

A perusal of the various proceedings referred to above discloses that the second respondent did not exhibit the amount of care, which was expected from him, in the matter of dealing with the livelihood of the petitioner. The show cause notice was issued on 11.10.2004 and the petitioner submitted his explanation on 01.11.2004. The order of cancellation bears the date 13.10.2004 and it is signed on 16.11.2004. The explanation offered by the second respondent that the date was wrongly typed as 13.10.2004 instead of 13.11.2004, even if accepted, would exhibit the lack of proper care in the matter. Further, he produced the copy of the order, which was signed on 13.11.2004, whereas the one served on the petitioner was signed on 16.11.2004. The second respondent admitted that the notification dated 08.11.2004 was issued by mistake.

When such is the discrepancy as to the dates and non-application of mind to the facts of the case, the first respondent ought to have passed necessary orders to protect the interests of the petitioner.

For the foregoing reasons, the writ petition is disposed of directing that the petitioner shall be entitled to continue as fair price shop dealer until the appeal preferred by him before the first respondent is disposed of. The second respondent has filed affidavits expressing regrets for the various lapses and

has undertaken to ensure that such mistakes do not recur. The same is taken on record. No order as to costs.

13.12.2004

ksld

To

1 The Joint Collector
Sangareddy, Medak.
2 Revenue Divisional Officer
Medak Dist.

3 Two CCs. to the G.P. for Civil Supplies, High Court of A.P.,

Hyderabad(OUT)

4 Two CD copies.